

where lands have been sold, under a *feri facias*, they must be considered as having been converted into personalty. So that if the judgment should be afterwards reversed, the title of the purchaser cannot be affected by it; for otherwise there would be no security in purchasing at sheriff's sales.(t)

Hence the surplus of the proceeds of a sale of lands, as well as of goods, remaining in the hands of the sheriff after a sale made by him under a *feri facias*, can only be viewed as the surplus of that money which he was commanded by the writ to make and bring into court. And hence such surplus must be regarded in all respects as a portion of the personalty of the defendant.

From a case reported, as having been considered and determined by the General Court, it appears that *Philemon C. Blake* had given two bonds to the State for the performance of his official duties as sheriff; on which the State sued, and having obtained judgments on each of them, issued a *feri facias* on the first judgment, and had it levied upon his real estate, which was sold for a sufficiency to satisfy the first judgment, leaving a surplus of £80, which was then in the hands of the defendant. The only question was, whether the State was entitled to a preference from the commencement of the second suit, over any judgments obtained against *Blake*, after that time. As to which it was held, that upon the State's obtaining a judgment against its debtor, the act of assembly(u) gave it a lien upon his lands by relation from the commencement of the suit, into whosoever hands they might come; and therefore, that the State was entitled to have its second judgment satisfied out of the surplus in preference to any judgment rendered after the commencement of its second suit.(v)

The court is reported to have said, in delivering the reasons of their judgment, that "the surplus of the money arising from the sale of the said *Blake's* land, after satisfying the first judgment of the State, remaining in the hands of the defendant, is to be considered as land, and subject to the attachment of the State, issued on the second judgment, in preference to the claim of the plaintiff."(w)

But the only question was, whether the lien of the State continued to adhere to the proceeds of the sale. Whether they were to be considered as realty or personalty, was, therefore, a matter of no kind of importance; and so it appears from the general tenor

(t) *Davidson v. Beatty*, 3 H. & McH. 616; *Barney v. Patterson*, 6 H. & J. 204.

(u) March 1778, ch. 9, s. 6.—(v) *Davidson v. Clayland*, 1 H. & J. 546.—(w) *Davidson v. Clayland*, 1 H. & J. 550.